IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 14531 of 2004(E)

PETITIONER:

DR.SHAHANA JASMINE P.,
ASHIYANA, ENGINEERING COLLEGE P.O.,
TRIVANDRUM-16.

BY ADV. SRI.K.JAJU BABU,
SMT.M.U.VIJAYALAKSHMI.

RESPONDENTS:
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1. **CO-OPERATIVE ACADEMY OF PROFESSIONAL EDUCATION, CO-OPERATIVE BANK TOWERS, VIKAS BHAVAN P.O., TRIVANDRUM-33, REP. BY ITS DIRECTOR.**

2. **CO-OPERATIVE MEDICAL COLLEGE, KALAMASSERY, KOCHI, REP. BY ITS PRINCIPAL.**

BY ADV. SRI.K.P.DANDAPANI,S.C.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH, J.

W.P.(C) No.14531 of 2004

Dated 26th February, 2007.

J U D G M E N T

Petitioner attacks the selection conducted by the first respondent for appointment to the post of Tutor. According to the petitioner, prescription of allowance for experience is impermissible. There is also a contention that rules of reservation were not followed. In the detailed counter affidavit, it is stated that the non-inclusion of the petitioner is not because of the non-compliance with the rules of reservation, but because she did not qualify herself for inclusion in the select list on the basis of the performance in the interview. It is also stated in the counter affidavit that the select list was prepared based on the performance in the interview, higher qualification and previous experience. The previous experience was taken as one of the factors since there were dedicated and meritorious teachers working in the college on contract basis. It will be profitable to extract the relevant contention at paragraph 17 of the counter affidavit as follows :-

> "The advertisement clearly indicated that a written test is not mandatory. Relaxation of age limit for internal candidates is

> a common practice in many organisations. As already explained, there were some dedicated and meritorious Teachers in the Cooperative Medical College, Kochi, working as Tutor/Resident on contract basis, who are experienced, have higher qualification, but past the normal age limit during the initial stages, helping the College to tide over the teething troubles and keenly interested in setting up the Medical College and Hospital to the present level. There was no regular recruitment to the post of Tutor for more than two years. Some of these temporary employees were continuing in the institution for nearly two years. Having used their services during the difficult days, denying them an opportunity to compete with others for a regular posting in the College, would amount to denial of natural justice to them. Hence it was essential that all such temporary employees be given a chance to apply for regular appointment. Age-exemption was, therefore, extended to those who may otherwise be deprived of the chance for regular appointment."

2. The staff selection committee is not on the party array. The affected parties are also not on the party array. All that apart, it is seen from the counter affidavit itself that the non-inclusion of the petitioner in the select list was only because, on an appraisal of the performance, she did not qualify herself for inclusion in the select list. Thus, there is no merit in the writ petition. It is dismissed.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

O.P.No. of 2002

J U D G M E N T

Dated 26th February, 2007.